

PLEASE NOTE THAT A FORMAL APPLICATION FOR A HABITAT LOSS PERMIT HAS NOT BEEN FILED AT THIS TIME. THE FOLLOWING IS A DRAFT FORM OF DECISION FOR A HABITAT LOSS PERMIT SHOWING THE FORMAT AND POSSIBLE CONDITIONS FOR A FUTURE HABITAT LOSS PERMIT. BECAUSE A FORMAL APPLICATION HAS NOT BEEN FILED, CERTAIN DATES, FINDINGS AND OTHER INFORMATION IS ABSENT FROM THE DRAFT FORM OF DECISION, THIS INFORMATION WILL BE INCLUDED IN THE FINAL FORM OF DECISION.

**DRAFT
DECISION OF THE DIRECTOR
HABITAT LOSS PERMIT**

APPLICATION NUMBER: HLP xx-xxx, COFD-00251

ASSOCIATED PERMIT(S): Sweetwater Reservoir Loop Trail

NAME OF APPLICANT: County of San Diego, Department of Public Works

DESCRIPTION/LOCATION OF LOSS:

This document presents findings required for the issuance of a Habitat Loss Permit under the Endangered Species Act Section 4(d) rule for the California gnatcatcher (*Polioptila californica*). The action being addressed with these findings is the removal of coastal sage scrub associated with the Sweetwater Reservoir Loop Trail project within the County of San Diego. The proposed project is partially within the boundaries of the County of San Diego's MSCP Subarea Plan. This permit only addresses impacts to habitats outside of the County of San Diego's MSCP Subarea Plan. The project will impact 0.18 acre of coastal sage scrub (CSS) of the total 7.34 acres onsite associated with Segments 1, 1a, and 3 through 5 of the project as shown on the attached Habitat Loss Exhibit, dated July 25, 2008. A separate Habitat Loss Permit will be obtained for Segments 6 through 8 as these segments will be constructed at a future date.

The proposed project is located in Bonita, an unincorporated portion of San Diego County. The northern loop trail segments are located along the northern and western borders of the Sweetwater Reservoir within the Sweetwater Regional Park and lands owned by the Sweetwater Authority. Segment 1a is located between Conduit Road and the Bonita Road Bridge. The project location is indicated on the attached USGS map.

The proposed project is to establish and formalize the northern portion of the Sweetwater Reservoir Loop Trail. The proposed project will connect to the existing southern portion of the trail system so as to eventually allow for non-motorized recreational opportunities completely around the Sweetwater Reservoir, a 14.1-mile loop trail. The proposed project is approximately 5.3 miles in length. In addition, a trail segment (Segment 1a) will be constructed along an existing dirt path adjacent to the Bonita Golf Course between Conduit Road and the Bonita Road Bridge, connecting the entire loop trail (northern and southern portions) to an existing trail system to the west. Segment 1a is approximately 0.64 miles in length. Figure 3 identifies the location of each of the trail segments and the location of the staging areas.

The proposed northern loop trail to be constructed by the County is divided into eight trail segments (Segments 1, 1a, and 3 through 8), including drainage crossings over several named and unnamed drainages, and two trail staging areas. Segment 2 will be the responsibility of Caltrans as part of mitigation for the SR 125 Extension Project. The two staging areas will serve as a trailhead and/or rest area providing hikers and equestrian riders access to both the northern and southern trail systems, as well as providing users with parking, bathroom and drinking water facilities, trash receptacles, equestrian hitching posts, and benches. Staging Area 1 is an existing facility with all the necessary amenities within the County's Summit Park and can be accessed at the end of the Red Hill Trail. Staging Area 2 is currently a vacant lot located near the intersection of Lakeview Avenue and Quarry Road, which will require the installation of the above-mentioned facilities.

The northern portions of the Sweetwater Reservoir Loop Trail will be improved and maintained in accordance with the County of San Diego Trail Design Guidelines. Trail routes were selected to avoid and minimize potential impacts to streambeds and sensitive vegetation to the maximum extent practicable. The proposed loop trail will establish trails along existing disturbed trails (non-designated), paths and roadways wherever feasible. In general, the width of the trail tread will vary between 8 and 12 feet with a minimum 10-foot overhead clearance. The width of the trail will be no more than 4 feet wide in areas adjacent to sensitive biological habitats including wetland habitats. The trail surface will be removed of rocks, debris, and roots. An effective combination of site control, source control, and treatment control Best Management Practices (BMPs) are included in the project design for the northern trail system to reduce polluted runoff into the reservoir and minimize impacts to water quality.

Physical and/or visual barriers such as natural vegetation, topography, limited fencing, trail makers, and signage will be incorporated into project design to protect sensitive habitats, sensitive species, and wetland habitats by directing trail users to designated trails. The use of motorized vehicles on the trails is prohibited, except for wheelchairs,

maintenance and emergency vehicles. Foot traffic, equestrian activity, and bicycling will be restricted to designated trails only. In addition, dogs must be leashed at all times and restricted to designated trails. The release or transplantation of non-native animals, fish, or vegetation, or the collection of plants, plant material, wildlife, or historic artifacts will not be allowed. In addition, hunting of animals or waterfowl along the trail segments or adjacent to the reservoir is prohibited.

Trail lighting is not permitted within wildlife habitat except where essential for roadways, facility use and safety. If such lighting is necessary, lighting within wildlife habitat or along its edges will be shielded and directed away from wildlife habitat and limited to low pressure sodium sources.

During construction, temporary fencing will be installed to identify construction and staging area limits. All construction activities, including equipment storage, equipment cleaning, and stockpiling will occur within the identified construction areas. All storage areas will be protected with the use of fiber rolls and/or silt fences. Fencing will be inspected prior to the start of construction and monitored during construction by a qualified biologist to avoid unauthorized impacts. Temporary watering of the construction site will be conducted on an as-needed basis to prevent potential dust damage to sensitive vegetation and habitat.

This document only addresses the segments that will be constructed by the County at this time (Segments 1, 1a, and 3 through 5). These segments are described below in more detail.

Segment 1

Segment 1 begins at the convergence of Sweetwater Road and Quarry Road and is approximately 2,900 feet long. From the trailhead, the trail moves south for approximately 1,050 feet, turns east for approximately 400 feet, and turns north again following the western boundary of the Bonita Golf Course for approximately 1,450 feet where it connects to Segment 4. The trail segment will be located within a trail easement varying in width from 12 feet to 20 feet, with the trail tread varying between 4 feet (adjacent to sensitive habitat) and 10 feet.

Drainage improvements required for this segment include installation of 18" and 24" corrugated metal pipe (CMP) culverts that will convey drainage from the trail and adjacent properties into a proposed 18" reinforced concrete pipe (RCP) stormdrain. The stormdrain will replace an existing wooden "trough" in order to properly convey stormwater during rain events and runoff from Sweetwater Road.

Caltrans will construct a bridge over the Sweetwater River within this segment as part of the mitigation requirements for the SR 125 extension.

Segment 1a

Segment 1a begins east of the Bonita Road Bridge and continues east along an existing trail at the southern boundary of the Bonita Golf Course to Conduit Road. This segment is approximately 3,379 feet in length and links the northern and southern portions of the loop trail to existing trails (formal and informal) to the west. The trail tread for this segment will be 8 feet to 10 feet wide within a 24-foot wide trail easement.

Drainage improvements required for this segment include installation of an 8" RCP culvert under the trail, associated head wall, catch basin and rip rap energy dissipator in order to convey nuisance flow from the adjacent homes to the south.

Segment 2

Segment 2 will be constructed by Caltrans as part of the mitigation requirements for the SR 125 extension; therefore, it is not analyzed as part of this project.

Segment 3

Segment 3 begins at Quarry Road approximately one mile northeast of the intersection of Quarry Road and Sweetwater Road and is approximately 220 feet long. This segment consists largely of a bridge over Spring Valley Creek that will connect Segment 2 and Segment 5. The pedestrian/equestrian bridge will be approximately 10 feet wide by 200 feet long. The bridge will be capable of carrying multiple equestrian riders. The bridge will be connected to Segment 5 via a short trail segment 10 feet wide and 20 feet long. A profile of the bridge for this segment can be seen in Figure 4.

Segment 4

Segment 4 begins at the terminus of Segment 2 and ends at the beginning of Segment 5 (approximately 60 feet southwest of Segment 3) and is approximately 5,600 feet in length. Caltrans will construct the first 550 feet of this segment as part of the mitigation requirements for the SR 125 Extension Project. Along a portion of Segment 4 closest to the Sweetwater Dam, the trail will utilize the existing San Diego County Water Authority (SDCWA) easement on Sweetwater Authority property that is currently used as a maintenance road. For safety reasons, the trail tread in this area will be widened to 16 feet with a 28-foot turnout to accommodate trail users, Sweetwater Authority vehicles,

and SDCWA maintenance vehicles. Signs will be posted along the trail alerting users of possible truck traffic in this area. Convex mirrors may be added if warranted.

Near the southern portion of this segment, an 18" RCP drainage pipe, wing walls at the inlet and outlet, as well as a rip rap energy dissipator will be constructed to convey water in this section under the trail. The trail itself will be constructed as a raised causeway approximately 650 feet in length.

Segment 5

Segment 5 begins at the terminus of Segment 4 (approximately 50 feet southwest of the terminus of Segment 3) and is approximately 1,640 feet in length. The trail will be 10 feet wide within a 20-foot wide trail easement.

Drainage facilities to be constructed as part of this segment include an 18" RCP culvert under the trail, associated wing walls, and a drainage ditch along the south side of the trail located approximately 300 feet east of the intersection of Segment 3 and Segment 5. The drainage ditch will convey water on the south side of the trail towards the new culvert.

Staging Area 1

Staging Area 1 is an existing facility located within the County's Summit Park and accessed at the end of the Red Hill Trail. The staging area is equipped with all the necessary amenities. Therefore, impacts biological resources are not anticipated.

The proposed project is surrounded by developed/residential uses to the north and open space parks to the south. The northeast portions of the loop trail transverse through the San Diego National Wildlife Refuge. The southwest area of the loop trail system travels through Sweetwater Regional County Park, owned and maintained by the County. The Sweetwater River exists to the east and west of the reservoir, and Spring Valley Creek exists on the northwest side of the reservoir.

The northern segments of the loop trail traverse a variety of vegetation communities. ICF, Jones & Stokes evaluated the biological resources on the project site and prepared a Biological Resources Report dated July 2008. Four sensitive plant species were identified within the project area: California adolphia (*Adolphia californica*), San Diego barrel cactus (*Ferocactus viridescens*), Otay tarplant (*Hemizonia conjugens*) and San Diego viguiera (*Viguiera laciniata*). The proposed trail project will not result in direct impacts to these sensitive plant species.

Sensitive vegetation communities identified within the project footprint include Diegan coastal sage scrub (CSS), maritime succulent scrub (MSS), non-native grassland (NNG), freshwater marsh (FWM), southern willow scrub (SWS), mule fat scrub (MFS), eucalyptus woodland (EUC), and giant reed (Arundo). Land covers on the project site include urban/developed land (DEV) and ornamental vegetation (ORN). Most of the proposed trail system will be located in previously disturbed areas; however, direct impacts may occur as a result of habitat removal for widening of existing paths for the trail segments and drainage crossings. Indirect impacts would result as a result of construction activities (i.e. noise, dust). As shown in Table 1 below, the project will impact a total of 1.1 acres of coastal sage scrub (CSS) within Segments 1, 1a, and 3 through 5, of which 0.18 acres is located outside the County's MSCP Subarea Plan.

Table 1. Vegetation Impacts and Total Mitigation Required for Segments 1, 1a, and 3 through 5						
Habitat	Total Onsite, Segments 1-5 (ac)	Inside MSCP (ac)	Outside MSCP (ac)	Total Impacts (ac)	Mitigation Ratio	Total Mitigation Required (ac)
Mule-fat Scrub	1.19	0.0	0.0	0.0	2:1	0.0
Southern Willow Scrub	4.33	0.63	0.37	1.00	3:1	3.0
Freshwater Marsh	0.07	0.05	0.0	0.05	2:1	0.10
Maritime Succulent Scrub	0.18	0.0	0.01	0.01	2:1	0.02
Diegan Coastal Sage Scrub	7.34	0.92	0.18	1.1	1.5:1	1.65
Non-native Grassland	2.93	1.04	0.0	1.04	0.5:1	0.52
Eucalyptus Woodland	0.86	0.08	0.15	0.23	N/A	N/A
Developed	14.04	4.14	0.44	4.58	N/A	N/A
Ornamental	5.49	0.76	0.0	0.76	N/A	N/A
Giant Reed	0.17	0.03	0.0	0.03	N/A	N/A
Total	36.60	7.65	1.15	8.80	-	5.29

As shown in Table 2 below, at the required 1.5:1 mitigation ratio for the impact to coastal sage scrub (CSS), the total mitigation required for coastal sage scrub (CSS) outside the MSCP is 0.27 acres.

Table 2. Vegetation Impacts and Mitigation Required for Segments 1, 1a, and 3 through 5 (Outside MSCP)				
Habitat	Total Onsite, Segments 1-5 (ac)	Impacts Outside MSCP (ac)	Mitigation Ratio	Mitigation Required Outside MSCP (ac)
Mule-fat Scrub	1.19	0.0	2:1	0.0
Southern Willow Scrub	4.33	0.37	3:1	1.11
Freshwater Marsh	0.07	0.0	2:1	0.0
Maritime Succulent Scrub	0.18	0.01	2:1	0.02
Diegan Coastal Sage Scrub	7.34	0.18	1.5:1	0.27
Non-native Grassland	2.93	0.0	0.5:1	0.0
Eucalyptus Woodland	0.86	0.15	N/A	N/A
Developed	14.04	0.44	N/A	N/A
Ornamental	5.49	0.0	N/A	N/A
Giant Reed	0.17	0.0	N/A	N/A
Total	36.60	1.15	-	1.4

Five sensitive animal species were identified within or adjacent to the project area: California gnatcatcher (*Polioptila californica californica*; CAGN), coastal cactus wren (*Campylohyhynchus brunneicapillus couesi*; CAWR), San Diego black-tailed jackrabbit (*Lepus californicus bennettii*; SDBJ), orange-throated whiptail (*Cnemidophorus hyperythrus beldingi*; OTW), and least Bell's vireo (*Vireo pusillus bellii*; LBV). Southwestern willow flycatchers (*Empidonax traillii*) or arroyo toads (*Bufo microscaphus californicus*) were not observed along the proposed trail segments around the reservoir. Protocol surveys for Quino checkerspot butterfly (*Euphydryas editha quino*) and arroyo southwestern toad were performed to determine presence/absence of these species. Surveys results were negative. Arroyo toads were last detected on the northeast portion of the reservoir in 1997 and have not been detected during annual surveys conducted by the Sweetwater Authority. Southwestern willow flycatcher breeding pairs were last detected on the northeast portion of the reservoir in 1998 and 1999, one pair each year.

Impacts to sensitive animal species, including the LBV, CAGN, CAWR, SDBJ, and OTW would be limited to loss of a small amount of suitable habitat for these species. Due to the limited impacts to suitable habitat, habitat-based mitigation beyond that summarized in Table 2 above is not proposed. Direct impacts could also occur to LBV, CAGN, and CAWR if vegetation removal or grading is conducted during the breeding season of these species (February 15 to September 15 of any year). During the

breeding season, vegetation removal, trail grading, and construction is restricted within 300 feet (500 feet for raptors) of natural habitat types of raptors, CAGN, LBV, and other migratory birds. If a qualified biologist determines that no nesting birds are within 300 feet (500 feet for raptors), construction may proceed with written concurrence from the United States Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG). Biological monitoring is required during construction to evaluate the potential for indirect impacts to raptors, migratory birds, and other sensitive biological resources on site.

Trail segments for the proposed project will use existing dirt paths. Trail routes were selected to avoid and minimize potential impacts to streambeds and sensitive vegetation to the maximum extent practicable.

The following design measures will be implemented prior to, and during, construction to avoid and minimize impacts to biological resources:

- Prior to the start of construction, all construction and staging area limits shall be clearly delineated with orange construction fencing to ensure that construction activity remains within the defined construction limits. A qualified biologist shall inspect the fencing prior to the start of construction and shall monitor activities during construction to avoid unauthorized impacts.
- During construction, all construction activities, including equipment storage; equipment cleaning; stock piling, etc.; shall occur within the delineated orange construction fence area. All construction staging areas shall be shown on plans.
- Natural drainage patterns shall be maintained to the extent practicable during construction. Erosion control techniques, including the use of sandbags, hay bales, and/or the installation of sediment traps shall be used to control erosion.
- Best Management Practices (BMPs) shall be implemented during construction activities which include, but are not limited to, storm drain inlet protection, stabilized construction entrance/exit areas, and silt fencing. Silt fences and fiber rolls shall be used to minimize surface transport of sediments. The construction contractor will be required to prepare and implement a *Stormwater Pollution Prevention Plan* (SWPPP). The implementation of BMPs as stated in the contract documents in accordance with the City of San Diego's and the City of Chula Vista's Stormwater Regulations would reduce water quality impacts to below level of significance.
- To prevent potential dust damage to vegetation in the conserved habitat, spraying of the construction site with clean water shall be conducted on an as-needed basis.
- The use of motorized vehicles on trails shall be prohibited.
- Natural vegetation, topography, limited fencing, and signage will be used to direct trails users to designated trails and away from sensitive habitat areas.
- Dogs must be leashed at all times.

- Vegetation removal trail grading and construction will be prohibited during the bird breeding season
- No brushing, clearing and/or grading will be allowed within 300 feet of natural habitat types during the breeding season of raptors, California gnatcatcher, least Bell's vireo and other migratory birds. This is defined as occurring between February 1 and September 15 of any year. However, if it is determined, through surveys performed by a qualified biologist that no nesting birds are within 300 feet (500 feet for raptors), construction may move forward with written concurrence from the United States Fish and Wildlife Service and the California Department of Fish and Game.

Table 1. Total Project Impacts for Segments 1-5 (in/out of MSCP)

Staff has determined that although the site supports native biological habitat, the removal of this habitat will not result in substantial adverse effects, either directly or through habitat modifications, to species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.

DECISION:

The Director of Public Works has approved your application for a HABITAT LOSS PERMIT. This Habitat Loss Permit approval does not become final until both the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) concur with the Director's approval, by either of the following:

1. Concurrence implied by allowing a 30-day period, initiated by their receipt of this decision, to lapse without presenting written notification to the County that the decision is inconsistent with the Southern California Coastal Sage Scrub (CSS) Natural Community Conservation Planning (NCCP) Process Guidelines (CDFG, November 1993) or any approved subregional mitigation guidelines; or
2. Granting concurrence through written notification to the County prior to the conclusion of the 30-day period, initiated by their receipt of this decision, that the project is consistent with the Southern California CSS NCCP Process Guidelines or any approved subregional mitigation guidelines.

This Habitat Loss Permit allows for the loss of the above-described coastal sage scrub habitat (see attached Habitat Loss Exhibit) and incidental take of the California gnatcatcher for a period of one calendar year commencing the day concurrence is given by both the USFWS and CDFG. If the loss of habitat, as authorized by this Habitat Loss

Permit, has not occurred within this one-year period, this Habitat Loss Permit and the authorization for the loss of coastal sage scrub habitat will expire.

Use and reliance upon this Habitat Loss Permit cannot occur until all of the requirements as specified within the “Conditions of Approval” section of this permit have been satisfied.

CONDITIONS OF APPROVAL:

- A. Prior to use and reliance on this Habitat Loss Permit, the following conditions shall be met:
1. Impacts to disturbed coastal sage scrub will be mitigated through deduction of 0.27 acre coastal sage scrub credits at the County's Rancho San Diego Mitigation Bank (1.5:1 ratio).
 2. Impacts to southern willow scrub will be mitigated through restoration and enhancement of 1.11 acres of Spring Valley Creek (3:1). Portions of Spring Valley Creek that are east and south of Quarry Road are covered with dense stands of Giant Reed (*Arundo donax*) and Canary Island date (*Phoenix canariensis*) and Mexican fan palm (*Washingtonia robusta*) trees; which have removed much of the biological value of the creek. Restoration and enhancement will consist of removal of non-native species and replanting with native riparian species.
 3. Impacts to 0.10 acre of maritime succulent scrub will be mitigated through preservation of 0.20 acre of maritime succulent scrub at a County approved mitigation bank. Alternatively, mitigation may consist of restoration of 0.20 acre of maritime succulent scrub within the Sweetwater Valley Regional Park.
- B. The following specific note shall be placed on any construction plans:
1. Vegetation removal, grading, clearing, and any construction-related activities are restricted during the breeding season (February 1 to September 15 of any year) within 300 feet (500 feet for raptors) of natural habitat for types of raptors, California gnatcatcher least Bell's vireo, and other migratory birds. If a qualified biologist determines that no nesting birds are within 300 feet (500 feet for raptors), construction may proceed with written concurrence from the United States Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG). Biological monitoring is required during

construction to evaluate the potential for indirect impacts to raptors, migratory birds, and other sensitive biological resources on site.

ENVIRONMENTAL FINDINGS:

A. CEQA Findings

To be provided

B. FINDINGS MADE IN SUPPORT OF THE ISSUANCE OF THE HABITAT LOSS PERMIT:

The following findings are made based upon all of the documents contained in the record for this project and pursuant to Section 86.104 of County of San Diego Ordinance No. 8365 (N.S.) and Section 4.2.g of the CSS NCCP Process Guidelines (CDFG, November 1993):

Finding 1.a: The habitat loss does not exceed the five percent guideline.

The proposed project will impact 0.18 acres of coastal sage scrub. Potential impacts to the coastal California gnatcatcher (*Polioptila californica*) may result due to the loss of this suitable habitat. This species was observed in several locations along the northern trail segments included in the proposed project. Approved coastal sage scrub losses as of the date of June 10, 2008 and including this approval, for the entire unincorporated County, outside the boundaries of the Multiple Species Conservation Program (MSCP), are presented in the following table:

Unincorporated Area Coastal Sage Scrub Cumulative Losses

Total loss allowed under five percent guideline:	2,953.30 acres
Cumulative loss of Coastal sage scrub to date:	1,134.02 acres
Net loss due to this project:	0.18 acres
Total cumulative loss:	1,133.84 acres
Remaining loss under five percent guideline:	1,819.46 acres

Finding 1.b: The habitat loss will not preclude connectivity between areas of high habitat values.

Although the project is located within an area of high habitat value, the project will utilize existing trail tread to the fullest extent. Minor grading is necessary to bring the existing informal trails up to the County trail standards, to provide safe passage and adequately convey stormwater flow. The coastal sage scrub to be removed is disturbed in nature as it is along existing dirt paths and easement roads. Therefore, the habitat loss will not preclude connectivity between areas of high habitat values.

Finding 1.c: The habitat loss will not preclude or prevent the preparation of the subregional NCCP.

A large portion of the proposed loop trail project is located within the County's MSCP South County Subarea Plan. It has been determined that the project is consistent with the existing subarea plan. Other portions of the project occur on lands around the Sweetwater Reservoir owned by the Sweetwater Authority. These lands are under analysis as part of the Joint Water Powers NCCP planning process; however, the proposed project will not affect the preparation of the JWP NCCP planning process as the project has strived to minimize impacts through use of existing trails and easement roads.

Finding 1.d: The habitat loss has been minimized and mitigated to the maximum extent practicable in accordance with Section 4.3 of the NCCP Process Guidelines.

Both the northern trail alignment and connection segment (Segment 1a) will utilize existing trail tread and easement roads to the fullest extent practicable. Many segments will only require minimal remedial grading improvements along portions of the proposed alignment. Impacts to 0.37 acre of southern willow scrub will be mitigated at a 3:1 ratio and impacts to 0.18 acre of CSS will be mitigated at a 1.5:1 ratio. Therefore, the project provides for the development of the least sensitive habitat areas.

Finding 2 The habitat loss will not appreciably reduce the likelihood of survival and recovery of listed species in the wild.

The proposed project will result in impacts to 0.18 acre of CSS. Potential impacts to the coastal California gnatcatcher (*Polioptila californica*) may result due to the loss of this suitable habitat. The coastal California gnatcatcher is a federally listed

endangered species and state listed species of special concern. This species was observed in several locations along the northern trail segments included in the proposed project.

The loss of 0.18 acre of CSS will not appreciably reduce the likelihood of survival and recovery of the California gnatcatcher because the project compensates for this loss of suitable habitat by providing habitat at another suitable location within the Sweetwater Watershed. Mitigation for impacts to CSS will occur at a ratio of 1.5:1 through deduction of 0.27 acres of CSS credits at the County of San Diego's Rancho San Diego Mitigation Bank.

In addition, vegetation removal, grading, clearing, and any construction-related activities will be restricted during the breeding season (February 1 to September 15 of any year) within 300 feet (500 feet for raptors) of natural habitat for types of raptors, California gnatcatcher least Bell's vireo, and other migratory birds. If a qualified biologist determines that no nesting birds are within 300 feet (500 feet for raptors), construction may proceed with written concurrence from the United States Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG). Biological monitoring is required during construction to evaluate the potential for indirect impacts to raptors, migratory birds, and other sensitive biological resources on site.

Finding 3: The habitat loss is incidental to otherwise lawful activities.

The issuance of a Habitat Loss Permit by the County of San Diego, with the concurrence of the Department of Fish and Game and U.S. Fish and Wildlife Service is required prior to the clearing of any coastal sage scrub supported on the project site. The project will be required to obtain a CDFG 1602 Streambed Alteration Agreement, an ACOE Clean Water Act Section 404 permit, and a RWQCB Clean Water Act Section 401 Water Quality Certification prior to project initiation. Construction and/or land use modification will not commence until all appropriate permits have been issued. The project has been found to be in conformance with Section 86.104 of the San Diego County Code. As such, the anticipated loss will be incidental to "otherwise lawful activities".

NCCP FLOWCHART:

1. Is natural vegetation present? **Yes.**
2. Is Coastal sage scrub present? **Yes.**
3. Is Coastal sage scrub the most dense in the subregion? **No.**
4. Is the land close to high value district. **Yes.**
5. Is the land located in a corridor between higher value districts. **No.**
6. Does the land support high density of target species? **Yes.**

Based on the NCCP Logic Flow Chart, the quality of habitat supported on the project is defined as being "Intermediate Value."

MITIGATION MONITORING AND REPORTING PROGRAM:

MITIGATION MONITORING AND REPORTING PROGRAM:

The following shall be the Mitigation Monitoring or Reporting Program for this Habitat Loss Permit:

Public Resources Code Section 21081.6 requires the County to adopt a mitigation reporting or monitoring program for any project that is approved on the basis of a Mitigated Negative Declaration or an Environmental Impact Report for which findings are required under Section 21081(a)(1). The program must be adopted for the changes to a project which the County has adopted, or made a condition of project approval, in order to mitigate or avoid significant effects on the environment. The program must be designed to ensure compliance during project implementation.

The mitigation monitoring program is comprised of all the environmental mitigation measures adopted for the project. The full requirements of the program (such as what is being monitored, method and frequency, who is responsible, and required time frames) are found within the individual project conditions. These conditions are referenced below by category under the mechanism which will be used to ensure compliance during project implementation.

- Subsequent Project Permits

Compliance with the following conditions is assured because specified subsequent approvals required for this project will not be approved until the conditions have been satisfied:

Conditions IA1, 2, 3 & I B1.

NOTICE: The issuance of this permit by the County of San Diego does not authorize the applicant for said permit to violate any federal, state, or county laws, ordinances, regulations, or policies, including but not limited to, the federal Endangered Species Act and any amendments thereto.

NOTIFICATION TO APPLICANT: The County of San Diego hereby notifies the applicant that State law (A.B. 3158) effective January 1, 1991, requires certain projects to pay fees for purposes of funding the California Department of Fish and Game. If you made this payment at the time of public review of the environmental document pursuant to Administrative Code Section 362, Article XX, effective August 27, 1992, you have met this obligation. If the fee has not been paid, to comply with State law, the applicant should remit to the County Department of Planning and Land Use, within two (2) working days of the effective date of this approval (the “effective date” being the end of the appeal period, if applicable), a certified check payable to “County Clerk” in the amount of \$1,490 for a project with a Negative Declaration, or \$1,930 for a project with an Environmental Impact Report. These fees include an authorized County administrative fee of \$50. The fees may be waived for projects that are found by the Department of Planning and Land Use and the California Department of Fish and Game to have a de minimus impact on fish and wildlife resources. Failure to remit the required fee in full within the time specified above will result in County notification to the State that a fee was required but not paid, and could result in State imposed penalties and recovery under the provisions of the Revenue and Taxation Code. In addition, Section 21089(b) of the Public Resources Code, and Section 711.4(c) of the Fish and Game Code, provide that no project shall be operative, vested, or final until the required filing fee is paid.

JUDICIAL REVIEW TIME LIMITATIONS: The time within which judicial review of this decision must be sought is governed by Code of Civil Procedure Section 1094.6, which has been made applicable in the County of San Diego by San Diego County Code Section 11.120. Any petition or other paper seeking judicial review must be filed in the appropriate court not later than the 90th day following the date on which this decision becomes final; however, if within 10 days after the decision becomes final a request for the record of the proceedings is filed and the required deposit in an amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to not later than the 30th day following the date on which the record is either personally delivered or mailed to the party, or the party's attorney of record. A written request for the preparation of the record of the proceedings shall be filed with the Director, Department of Planning and Land Use, 5201 Ruffin Road, Suite B, San Diego, California 92123.

The foregoing decision was approved by the Director of Public Works on _____ [date of decision]. A copy of this decision, and the documentation supporting the decision, is on file in the Department of Planning and Land Use offices at 5201 Ruffin Road, Suite B, San Diego, California.

DEPARTMENT OF PUBLIC WORKS
JOHN SNYDER, DIRECTOR

BY: _____

Nelson Olivas, LUEG Program Manager

Attachments

Habitat Loss Exhibit dated July 25, 2008

USGS Map

Biological Resources Report, Mooney Jones and Stokes (July 2008)





